

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Egan et al.

U.S. Patent No.: 7,118,886

Application Serial No.: 09/674,237

Issued: October 10, 2006

Filed: July 24, 2001

For: *ESE Research and Development Limited Partnership*

Date: February 7, 2008

Commissioner for Patents

Attn: Certificate of Correction Branch

P.O. Box 1450

Alexandria, VA 22313-1450

**SECOND REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION
UNDER 35 U.S.C §254 AND 37 C.F.R. §1.322**

Sir:

The Assignee of record for the above-referenced patent hereby requests, pursuant to 35 U.S.C §254 and 37 C.F.R. §1.322, that a Certificate of Correction be issued. This is the second request made in order to correct mistakes incurred through the fault of the U.S. Patent and Trademark Office.

A first Request for Entry of Certificate of Correction under 35 U.S.C. §254 and 37 C.F.R. §1.322 ("the Request") was submitted on December 12, 2006. A copy of the Request is attached.

In a document dated February 1, 2007 (the "Decision"), the U.S. Patent and Trademark Office indicated that the Request was denied on the basis that "Comparison of the patent in column 191, line 24, with the corresponding location in the application file reveals that there is no discrepancy. A copy of the Decision is also attached hereto.

Further attached is the Interview Summary and Supplemental Examiner's Amendment mailed on June 24, 2005. The Supplemental Examiner's Amendment shows an amendment to claim 7 (renumbered as claim 2 in the issued patent). There is clearly a discrepancy between the language of the Supplemental Examiner's Amendment and the language of claim 2 as issued. Claim 2 at line 4 should recite "either of said nucleotide sequences" rather than "either of said nucleic acid sequences."

Finally, Applicants have no record of receiving the Decision from the U.S. Patent and Trademark Office, but only recently located the Decision by a search of the Private PAIR database, which is why this response to the Decision is delayed.

The mistakes appearing in the patent are set forth with corrections on the Certificate of Correction enclosed herewith, with an additional copy thereof and a return post card.

Patent No. 7,118,886
Issued: October 10, 2006
Page 2

No fee is believed due with this submission. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

Karen A. Magri
Registration No. 41,965

Attachments

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer No. 20792

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on February 7, 2008

Signature: _____

Typed or Printed Name of Person Signing Certificate: Carey Gregory

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 7,118,886
DATED : October 10, 2006
INVENTOR(S) : Egan et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 191.

Line 24 should read -- mentary to either of said nucleotide sequences, said --

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 7,118,886

No. of additional copies: _____



This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 1, 2007

Patent No. : 7,118,886 B1
Ser. No. : 09/674237
Inventor(s) : Egan, et al.
Issued : October 10, 2006
Title : **ESE GENES AND PROTEINS**
Docket No. : 3477-89

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Comparison of the patent in column 191, line 24, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Egan et al.

U.S. Patent No.: 7,118,886

Application Serial No.: 09/674,237

Issued: October 10, 2006

Filed: July 24, 2001

For: *ESE Research and Development Limited Partnership*

Date: December 12, 2006

Commissioner for Patents

Attn: Certificate of Correction Branch

P.O. Box 1450

Alexandria, VA 22313-1450

**REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION UNDER
35 U.S.C §254 AND 37 C.F.R. §1.322**

Sir:

The Assignee of record for the above-referenced patent hereby requests, pursuant to 35 U.S.C §254 and 37 C.F.R. §1.322, that a Certificate of Correction be issued. This request is made in order to correct the mistakes incurred through the fault of the U.S. Patent and Trademark Office. No fee is believed due. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

The mistakes appearing in the patent are set forth with corrections on the Certificate of Correction enclosed herewith, with an additional copy thereof and a return post card.

Respectfully submitted,



Karen A. Magri

Registration No. 41,965

Myers Bigel Sibley & Sajovec, P.A.

P. O. Box 37428

Raleigh, North Carolina 27627

Telephone: (919) 854-1400

Facsimile: (919) 854-1401

Customer No. 20792

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Attn: Certificate of Correction Branch, P.O. Box 1450, Alexandria, VA 22313-1450 on December 12, 2006.


Jessica M. French

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,118,886
DATED : October 10, 2006
INVENTOR(S) : Egan et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

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P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 7,118,886
No. of additional copies: _____

⇒
This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



UNITED STATES PATENT AND TRADEMARK OFFICE

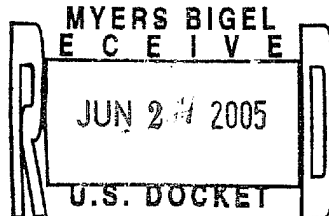
KAM

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,237	07/24/2001	Sean E. Egan	3477-89	4932

20792 7590 06/24/2005

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627



EXAMINER

DAVIS, MINH TAM B

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	09/674,237	EGAN ET AL.	
	Examiner	Art Unit	
	MINH-TAM DAVIS	1642	

All participants (applicant, applicant's representative, PTO personnel):

(1) MINH-TAM DAVIS. (3)_____.

(2) KAREN MAGRI. (4)_____.

Date of Interview: 15 June 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: _____.

Claim(s) discussed: _____.

Identification of prior art discussed: _____.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Claims 1, 7 will be amended.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

SUPPLEMENTAL EXAMINER'S AMENDMENT

This supplemental Examiner's Amendment replaces previous Examiner's Amendment, which was cancelled.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with KAREN MAGRI on 04/27/05 and 05/27/05 and 06/15/05.

The application has been amended as follows:

In the specification:

The related application information on the first page, after the title, was updated as follows:

This application claims the benefit under 35 U.S.C. 371 from PCT Application No. PCT/CA99/00375, filed April 27, 1999, the disclosure of which is incorporated by reference herein in its entirety, which claims the benefit of Canadian Application Serial No. 2,230,201, filed April 27, 1998 and U.S. Provisional Application Serial No. 60/118,739, filed February 5, 1999, now abandoned, the disclosures of which are incorporated by reference herein in their entirety.

In the claims:

Claim 1 was amended as follows:

Claim 1 (Amended). An isolated nucleic acid comprising a nucleotide sequence

Art Unit: 1642

selected from the group consisting of:

- (a) a nucleotide sequence encoding the amino acid sequence of SEQ ID NO:3;
- (b) Sequence ID NO:1;
- (c) Sequence ID NO:2; and
- (d) a nucleotide sequence completely complementary to ~~a~~ the sequence of any of (a) to (c).

Claim 7 was amended as follows:

Claim 7 (Amended). An isolated nucleic acid fragment of a nucleotide sequence selected from the group consisting of SEQ ID NO:1, SEQ ID NO:2 and a sequence completely complementary to either of said nucleotide sequences, said fragment consisting of at least 10 consecutive nucleotides of said nucleotide sequence ~~a nucleotide sequence selected from the group consisting of SEQ ID No.1, SEQ ID No. 2 and a sequence completely complementary to either of said nucleic acid sequences.~~

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 571-272-0830. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY SIEW can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

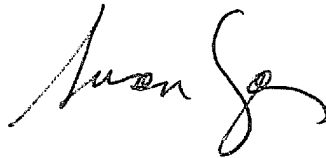
Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MINH TAM DAVIS

June 16, 2005

SUSAN UNGAR, PH.D
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Susan Ungar", with a stylized flourish at the end.